

175.38 Custom farming contract tax credit.

1. A custom farming contract tax credit is allowed under this section. The tax credit is allowed against the taxes imposed in chapter 422, division II, as provided in section 422.11M, and in chapter 422, division III, as provided in section 422.33, to encourage taxpayers who are considering custom farming agricultural land located in this state to negotiate with qualified beginning farmers.

2. In order to be eligible to claim a custom farming contract tax credit, the taxpayer must meet qualifications established by rules adopted by the authority. At a minimum, the taxpayer must be a person who may acquire or otherwise obtain or lease agricultural land in the same manner as provided for a taxpayer claiming an agricultural assets transfer tax credit under section 175.37.

3. An individual may claim a custom farming contract tax credit of a partnership, limited liability company, S corporation, estate, or trust electing to have income taxed directly to the individual. The amount claimed by the individual shall be based upon the pro rata share of the individual's earnings from the partnership, limited liability company, S corporation, estate, or trust.

4. A custom farming contract tax credit is allowed only for the amount paid by the taxpayer to a qualified beginning farmer under a custom farming contract as provided in rules adopted by the department. The contract must provide for the production of crops located on agricultural land or the production of livestock principally located on agricultural land. The agricultural land must be real estate and any improvements used for farming in which the taxpayer holds a legal or equitable interest.

5. The custom farming contract must provide that the taxpayer pay the qualified beginning farmer on a cash basis. The contract must be in writing for a term of not more than twelve months. The total cash payment must equal at least one thousand dollars.

6. The taxpayer must make all management decisions substantially contributing to or affecting the production of crops located on the agricultural land or the production of livestock principally located on the agricultural land. However, nothing in this paragraph prohibits a qualified beginning farmer from regularly or frequently taking part in making day-to-day operational decisions affecting production. The qualified beginning farmer must provide for all of the following:

a. Production items principally used to produce crops located on the agricultural land or to produce livestock principally located on the agricultural land.

b. Labor principally used to produce crops located on the agricultural land or to produce livestock principally located on the agricultural land. The qualified beginning farmer must personally provide such labor on a regular, continuous, and substantial basis.

7. A custom farming contract tax credit is not allowed if the taxpayer and qualified beginning farmer are related as any of the following:

a. Persons who hold a legal or equitable interest in the same agricultural land, including as individuals or as general partners, limited partners, shareholders, or members in the same business entity as defined in section 501A.102.

b. Family members related as spouse, child, stepchild, brother, or sister.

c. Partners in the same partnership which holds agricultural land, or shareholders in the same family farm corporation or members in the same family farm limited liability company and defined in section 9H.1.

8. A custom farming contract tax credit shall be calculated based on the gross amount paid to the qualified beginning farmer under the custom farming contract.

a. If the qualified beginning farmer is not a veteran, the taxpayer may claim a tax credit equal to seven percent of the gross amount paid to the qualified beginning farmer under the contract for each tax year that the tax credit is allowed.

b. If the qualified beginning farmer is a veteran, the taxpayer may claim a tax credit equal to eight percent of the gross amount paid to the qualified beginning farmer under the contract for the first year that the tax credit is allowed and seven percent of the gross amount paid to the qualified beginning farmer under the contract for each subsequent tax year that the tax credit is allowed. However, the taxpayer may only claim seven percent of the gross amount

paid to the qualified beginning farmer under a renewed contract or a new contract executed by the same parties.

9. A custom farming contract tax credit in excess of the taxpayer's liability for the tax year may be credited to the tax liability for the following five years or until depleted, whichever is earlier. A tax credit shall not be carried back to a tax year prior to the tax year in which the taxpayer redeems the tax credit. A tax credit shall not be transferable to any other person other than the taxpayer's estate or trust upon the taxpayer's death.

10. A taxpayer shall not claim a custom farming contract tax credit unless a tax credit certificate issued by the authority under this section is attached to the taxpayer's tax return for the tax year for which the tax credit is claimed. The authority must review and approve an application for a tax credit certificate as provided by rules adopted by the authority. The application must include a copy of the custom farming contract. The authority may approve an application and issue a tax credit certificate to a taxpayer who has previously been allowed a tax credit under this section. The authority may require that the parties to the contract provide additional information as determined relevant by the authority. The authority shall review an application for a tax credit certificate which includes the renewal of a contract to determine that the parties to the renewed contract meet the same qualifications as required for an original application. The authority shall not approve an application or issue a tax credit certificate to a taxpayer for an amount in excess of fifty thousand dollars. In addition, the authority shall not approve an application or issue a tax credit certificate to a taxpayer if any of the following applies:

a. The taxpayer is at fault for terminating another custom farming contract, as determined by the authority.

b. The taxpayer is party to a pending administrative or judicial action, or classified as a habitual violator in the same manner as provided in section 175.37.

c. The contract amount is substantially higher or lower than the market rate for a similar custom farming contract, as determined by the authority.

11. A taxpayer or the qualified beginning farmer may terminate a custom farming contract as provided in the contract or by law. The taxpayer must immediately notify the authority of the termination.

a. If the authority determines that the taxpayer is not at fault for the termination, the authority shall not issue a tax credit certificate to the taxpayer for a subsequent tax year based on the approved application. Any prior tax credit is allowed as provided in this section until its expiration. The taxpayer may apply for and be issued another tax credit certificate for the same agricultural land under a custom farming contract with another qualified beginning farmer.

b. If the authority determines that the taxpayer is at fault for the termination, any prior tax credit allowed under this section is disallowed, and the amount of the tax credit shall be immediately due and payable to the department of revenue. If a taxpayer does not immediately notify the authority of the termination, the taxpayer shall be conclusively deemed at fault for the termination.

2013 Acts, ch 125, §18, 23, 24

Referred to in §2.48, 175.2, 175.39, 422.11M, 422.33

[SP] For future repeal of this section effective December 31, 2017, see 2013 Acts, ch 125, §25, 28

[SP] Section takes effect June 17, 2013, and applies retroactively to January 1, 2013, for tax years beginning on or after that date; 2013 Acts, ch 125, §23, 24

[T] NEW section